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C O N F I D E N T I A L SECTION 01 OF 02 BAKU 000210

SIPDIS

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TAGS: [AJ](#) [KDEM](#) [PGOV](#) [PREL](#) [PHUM](#)

SUBJECT: RESPONSE: DEMARCHE ON AZERBAIJAN'S CONSTITUTIONAL

REFERENDUM

REF: SECSTATE 24919

Classified By: Political-Economic Counselor Robert Garverick, for reasons 1.4 b and d

¶1. (C) Ambassador delivered reftel points to Presidential Administration International Relations Advisor Novruz Mammedov on March 17. Mammedov received the demarche agreeing that we need to find the right approach under the new administration to constructively and productively address issues of democracy and human rights as a key part of our relations.

¶2. (C) Mammedov (please protect) then offered to explain to the Ambassador "the real reason" for the referendum, speaking candidly and off the record. Readily admitting that he understood his explanation would not go down well in Washington, he explained that immediately after the October 2008 Presidential election, jockeying began among the political and administrative (Ministers) elites in Azerbaijan with respect to who would be President Aliyev's successor in five years. Some, like Education Minister Misir Merdanov and Tax Minister Faisal Mammadov, already saw their futures assured by backing Mehriban Aliyeva. If this jockeying had started so quickly, Mammedov said, "imagine what it would have been in 2, 3 or 4 years." This development surprised and alarmed the President and his supporters. Azerbaijan is a "progressive Muslim country" but divisions amongst the leadership when Azerbaijan "was only halfway along its development path" could have serious consequences. Moreover, divisions among the elite would open channels for foreign powers, especially Russia and Iran, to exploit. "Our society is not mature, like the US or Europe) our Ministers do not have a modern mentality ... we came up with the idea of the referendum to calm this (situation) and assure stability given the current state of our politics."

¶3. (C) The Ambassador also delivered the reftel points via telephone to Deputy Foreign Minister Mammadgulyev. He thanked the USG for the message and said he appreciates the USG's attention to this process, which he hopes will be "another progressive step on human rights and democracy in Azerbaijan." He said he would report the message to the Minister. Reftel demarche was also delivered by poloff to Central Election Commission Head of International Department Rovzat Gasimov, who thanked the Embassy for its support of a free and fair referendum process.

Venice Commission Report

¶4. (SBU) This demarche was delivered on the same day the Council of Europe's Venice Commission published its opinion on the Constitutional amendments to be voted on in this referendum. The draft opinion was delivered to the GOAJ on March 6 and led the GOAJ to send a high level delegation from both parliament and the presidential administration to the Venice Commission meeting on March 13-14. The final opinion was published in its entirety, and then followed by a long response from the GOAJ, which argued against nearly every paragraph of the opinion. After today's publication Ali Huseynov, a member of Azerbaijan's PACE delegation condemned the opinion to the press.

¶5. (SBU) The opinion itself takes a relatively strong stance against the legality of several of the amendments, and of the process under which it was conducted. It calls the removal of the two-term limit on the presidency "a serious set-back on Azerbaijan's road to a consolidated democracy." It also objects to the extension of the term of both parliament and the president in times of war, several of the amendments dealing with basic rights and liberties including the one on the media, and the provision which requires municipalities to report to the parliament. It does approve of the initiative to allow 40,000 citizens to propose legislation, the provision that parliament will approve intergovernmental agreement that contradict Azerbaijani law, and the one calling for the publication of parliamentary sessions and court decisions. Overall, the Venice Commission summarizes its opinion with the sentence "the overall logic and coherence of the reform is not always evident and the procedure chosen may give rise to some criticism."

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